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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,739	10/11/2001	Christopher L. Wooten	TT4314	2217

47332 7590 08/23/2005

THE CAVANAGH LAW FIRM
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1850 NORTH CENTRAL AVENUE, SUITE 2400
PHOENIX, AZ 85004

EXAMINER

TUCKER, WESLEY J

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<i>Advisory Action Before the Filing of an Appeal Brief</i>	Application No. 09/976,739	Applicant(s) WOOTEN ET AL.	
	Examiner Wes Tucker	Art Unit 2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

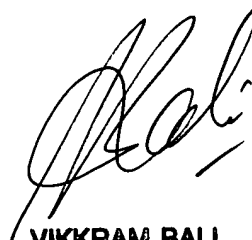
REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Applicant's arguments with regard to independent claims 1, 10 and 15 are not persuasive for at least the following reasons: First of all it is exceedingly unclear why Applicant has chosen to discuss the background of Ferrell et al. on pages 6, 7 and 8 of the remarks to show the difference between Ferrell and the present invention. In the background section of Ferrell et al. the history of image defect databases is discussed. Indeed it is the same problem of quickly identifying similar defects without exhausting user resources that both Ferrell and the present invention are trying to solve. Applicant's main argument seems to be that Ferrell's disclosed "feature vectors" do not in fact read on the claimed limitation of "defect spatial signatures." Applicant is directed to column 2, lines 54-65 wherein Ferrell discloses that his feature vector teaches the inclusion of an anomaly/defect characteristic. This is interpreted as a defect spatial signature. So wherever Ferrell discloses a feature vector, this is interpreted as teaching a defect spatial signature. Further Applicant argues that the feature vectors or spatial defect signatures are categorizing the feature vectors on page 10 of the remarks because of the way the feature vectors are grouped in the hierarchy. However Examiner points out that Ferrell discloses storing the feature vectors or spatial defect signatures in a feature vector list as part of the image data base (column 5, lines 15-19) and that in a preferred embodiment all images are stored in a image database merely organized in one file directory (column 6, lines 7-13). This is interpreted as being stored without category. Applicant's discussions on page 10 about categorizing the feature vectors according to most similar vectors is considered by Examiner to read more on the aspect of "determining if the recent defect spatial signature corresponds to at least one of the defect spatial signatures of the defect database." Applicant is further advised that when addressing limitations in the claims versus the cited reference teachings that passages from the reference are accordingly distinguished with quotation marks so that it is clear where the text of the reference ends and the Applicant's remarks begin. Applicant has not

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Advisory Action Before the Filing of an Appeal Brief

Part of Paper No. 4



VIKKRAM BALI
PRIMARY EXAMINER